

## **Remarks**

### **I. Status**

Claims 92, 96-101, 105-114 and 133-146 are presently under Examination, with pending claims 93-95, 102-104, 115-132 withdrawn in response to the previously issued requirements for restriction/election. In the interest of advancing prosecution, Applicants have herewith cancelled claims 92-100, 114-137. Such withdrawal is without prejudice or disclaimer to Applicants' right to pursue the cancelled subject matter in a continuation application. Accordingly, claims 101-113 and 138-146 are pending, with claims 102-104 presently withdrawn. In sum, claims 101, 105-113 and 138-146 are presently being Examined.

Cancellation of claims 116-132 has been made in light of the Finality of the Restriction Requirement issued on July 13, 2006. In the event that the Examiner elects to withdraw the restriction of these claims, Applicants respectfully request that they be rejoined and examined.

Rejoinder of withdrawn claims 102-104 is respectfully requested in light of Applicants' amendments. Examination of additional species embraced with Applicants' generic claims is also respectfully requested.

In the interest of advancing prosecution, Applicants have amended claim 101 to adopt the suggestion of the Examiner. No new matter has been added by this amendment.

### **II. The Rejections Pursuant to 35 U.S.C. § 112, First Paragraph**

#### **A. The Rejection of Claims 92, 96-101, 105-114 and 133-137**

Claims 92, 96-101, 105-114 and 133-137 have been rejected as not enabled by the Specification in light of their recitation of "a polypeptide comprising a variant Fe" or "at

least an amino acid modification.” These recitations have now been deleted from the pending claims.

Accordingly, Applicants respectfully submit that the rejection of claims 92, 96-101, 105-114 and 133-137 pursuant to 35 U.S.C. § 112, first paragraph may be properly withdrawn.

#### **B. The Rejection of Claim 114**

Claim 114 has been rejected in light of its recitation of being a “*pharmaceutical*” composition. The Examiner has predicated the rejection on the conclusion that the Specification fails to adequately teach how to effectively use an antibody pharmaceutical composition. In the interest of advancing prosecution, and without prejudice or disclaimer to pursuing such subject matter in a continuation application, Applicants have cancelled claims 114-115.

Accordingly, it is submitted that the rejection of claim 14 pursuant to 35 U.S.C. § 112, first paragraph may be properly withdrawn.

#### **III. The Rejection Relating to Obviousness-Type Double Patenting**

The Examiner has advised that certain claims of the present Application conflict with claims of the Assignee’s co-pending, non-allowed, United States Patent Applications Serial Nos. 11/271,140 and 11/502,820. A provisional obviousness-type double patenting rejection has accordingly been made.

Applicants respectfully advise the Examiner that the Examiner of United States Patent Application Serial No. 11/271,140 has already requested a terminal disclaimer with respect to the present application, and such disclaimer has already been filed with the United States Patent & Trademark Office. Examination of later-filed United States Patent Application Serial No. 11/502,820 has not yet begun.

Applicants respectfully submit no issue of double-patenting exists, and that the claims of the present application are not obvious over the cited -applications of the Assignee. Nevertheless, in order to advance prosecution of the present claims, Applicants herewith submit a terminal disclaimer of any term of the present application that would extend beyond the term of U.S. Patent Applications Serial Nos. 11/271,140 and 11/502,820.

It is submitted that the Examiner may therefore now properly withdraw the obviousness-type double patenting rejection.

#### **IV. Concluding Remarks**

Applicants submit that the present response is complete and complies with the requirements of 35 U.S.C. §121. The Application is believed to be in condition for Examination and early notice of favorable action is respectfully requested. Should the Examiner have any remaining questions regarding the subject invention or its patentability, Applicants encourage the Examiner to contact the undersigned to answer such questions or provide any desired additional information.

Respectfully Submitted,

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